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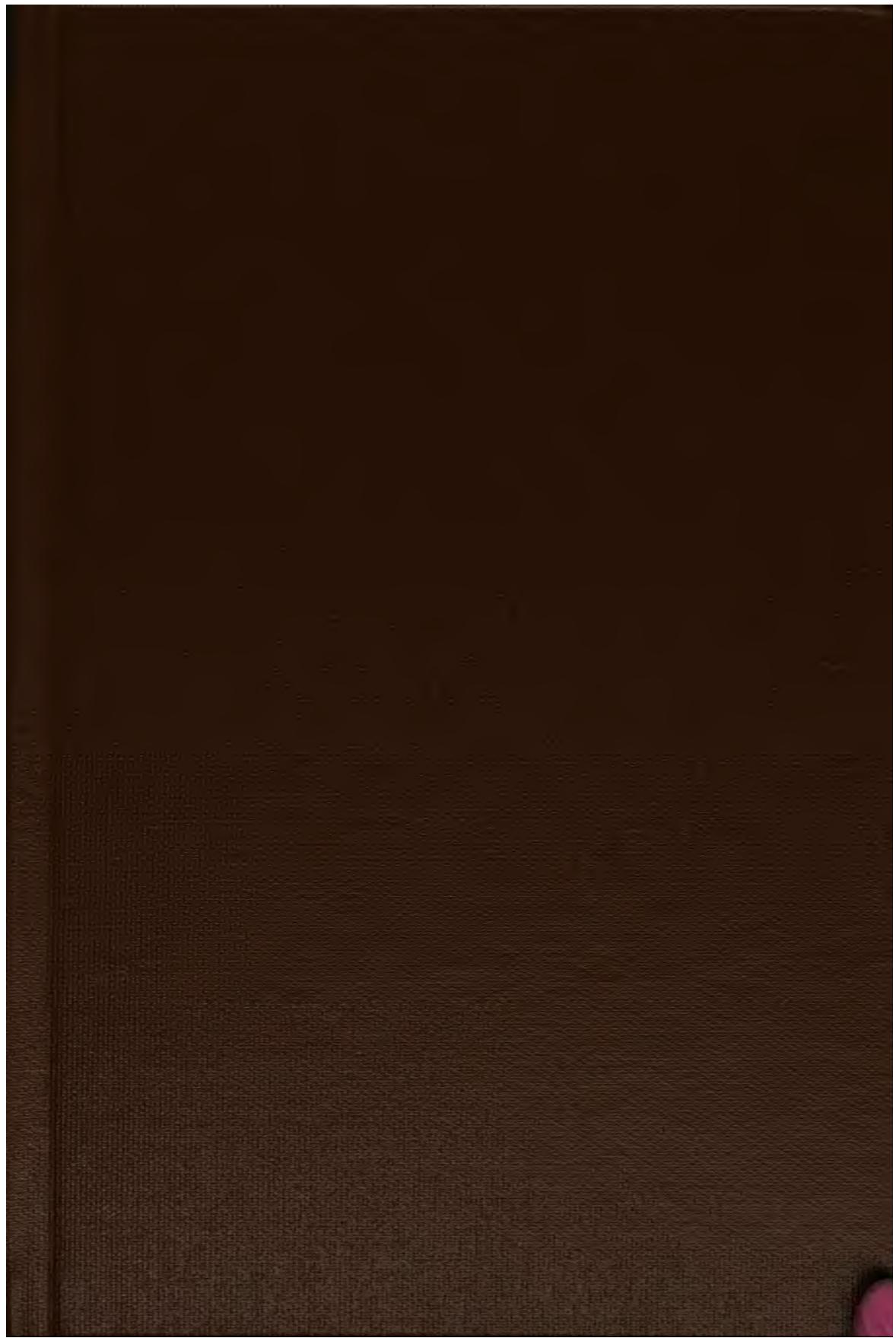
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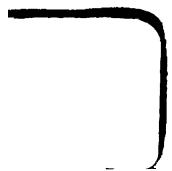
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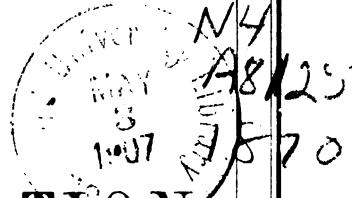




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Report of Proceedings KF  
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OF THE



BAR ASSOCIATION

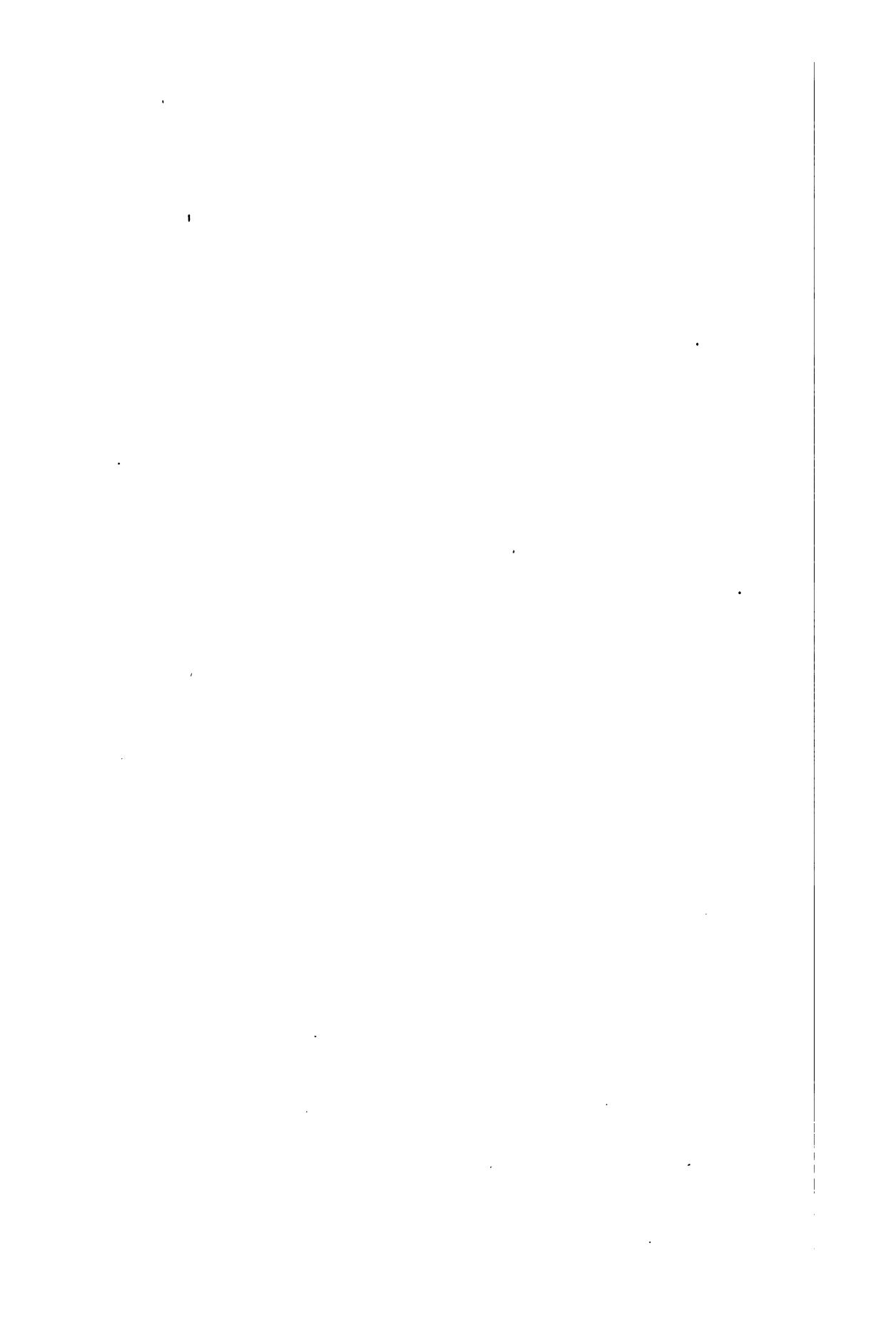
OF THE

CITY OF NEW YORK.

— · · · —  
New York :

DOUGLAS TAYLOR'S COMMERCIAL PRINTING HOUSE,  
COR. FULTON AND NASSAU STREETS.

1870.



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N.Y.

# Report of Proceedings

OF THE

# BAR ASSOCIATION

OF THE

CITY OF NEW YORK.

New York:

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COR. FULTON AND NASSAU STREETS.

1870.

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JUN 8 1940

VALAGU INFORMATION

H. H.  
C. W.  
N.Y.

TO THE MEMBERS OF THE BAR OF THE  
CITY OF NEW YORK.

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Some of our number who were strongly impressed with the importance in many ways of having our profession in this city organized into an association, having conferred together at intervals during the past year, resolved to make a beginning towards accomplishing this object. A short form of pledge was prepared and sent to a number of gentlemen for signature. When about two hundred names had been secured, it was thought proper to call the signers together for conference, and the result of their meeting was the appointment of committees to draft a constitution and to nominate officers. The constitution has been adopted, and the officers provided for in it have been chosen, and what has so far been done is now submitted to the profession at large, with the earnest hope that the project will receive the approval of every lawyer who has the dignity and honor of his calling at heart, and who feels the necessity of the harmonious co-operation of an upright Bar and a pure judiciary in the administration of justice.

It may be asked, why was not the whole body of the profession consulted ? Our answer is that such a course seemed impracticable. No one had authority to convene a general meeting of the Bar. Had such a meeting been called,

those who might have assembled would have had no more authority than any self-constituted committee. It is always necessary in such enterprises for a few to take the first steps. They naturally, in so doing, expose themselves to criticism, and must rely upon the integrity of their motives and the wisdom of their plans for their justification. The circular was sent to many besides those who signed it. Some delayed, others were absent, but we wish to assure all that there was no intentional avoidance of those who it was thought would unite with us. It is hoped, therefore, that any who may feel that they were justly entitled to be consulted, will consider the labor of seeing personally a large number of individuals, and explaining to each the details of unmatured plans, and will generously overlook any apparent assumption of authority on our part in view of the importance of the object proposed, and of the obvious difficulties of any plan.

In this spirit it is also hoped that they will accept for the present the constitution now submitted. It is the result of much discussion and consideration, and yet may seem to many quite defective. When the Association shall embrace a larger proportion of the profession, a review of the work will naturally take place.

It may seem invidious to require that any member of the Bar should submit to scrutiny his claims to membership in such an association, but as some selection is indispensable, no other plan seemed on the whole so unobjectionable as to constitute a committee to pass upon all applications. It is hoped that the character of the gentlemen who compose this committee, and the large number of negative votes

required to exclude an applicant, will furnish an assurance against any caprice or injustice in their action.

The question has been frequently asked, what do you propose, what is to be gained by joining this association ? We answer that our immediate object is simply organization.

It seems like an abdication of its legitimate position, that the Bar of the City of New York, numbering its members by thousands, should have absolutely no organization whatever ; that its influence in all matters affecting either its own dignity and interests as a profession, or the general good as connected with the advancement of jurisprudence or reforms in the administration of justice, should be only that divided and dispersed influence of its members, which from being divided and dispersed, goes for nothing. When its members were fewer and a longer probation was required for admission to its ranks, the traditions of the profession served, to some extent, to answer the purpose of a corporate organization. But since 1846, the era of our present State Constitution, events affecting, not the Bar only, but the whole fabric of public and social life, have succeeded each other with unparalleled rapidity. The barriers to admission to the Bar have been substantially removed ; the distinctions between attorney, solicitor and counsellor, have been obliterated ; the judges have been made elective by the popular voice for a short term only, and a system thus introduced which has necessarily exposed them to partizan influences.

During the same period has come into operation a new system of procedure, which gives to the judges so elected larger discretionary powers than ever before, and a patronage in the appointment of receivers and referees, and in the

granting of commissions and allowances, the exercise of which is at least dangerous.

With these changes, more immediately affecting our profession, have come during the same period the discovery of new gold fields, the immense issues of paper currency during our civil war, the excitements, the social vicissitudes produced by that conflict, the changes in measures of value, the growth of corporate enterprise, the increase of luxury and the social demoralization which confront us on every side.

What has been the effect of all these things on the Bar ? Many say, its glory and dignity are gone, that it has ceased to be a noble profession and is merely a trade with the rest. We do not admit this charge. But we mean to come together as a body, to look the question fairly in the face, and if we find that we have been tainted by the influence of the times to undertake ourselves the work of purification, to revive a past renown, and give new life to traditions which we believe to be only dormant, not extinct. What specially is to be undertaken ought not to be determined by the few who have taken the lead in the enterprise. The association will itself, after mature consideration, decide upon its own action ; but lest the feeling which has prompted the present movement should, after its first impulse, flicker and die out, it is proposed to make our association a permanent institution, to procure a commodious building up town, and to establish in it a well-appointed law library. Having, besides this, rooms for consultation and social intercourse, we feel that we shall offer, especially to the younger members of the Bar, an equivalent at least for the expense of membership. The larger our numbers, the more readily and speedily will our purposes be accomplished. With five hundred members our

pecuniary success would be assured, and we have encouragements that voluntary donations will at once enable us to lay the foundation of a library that will soon become the pride of our Bar. We work not for ourselves only, but for those who are to come after us, and we are confident that the spirit of our profession once aroused, we can do all that we require.

We have not been unmindful of our brethren in the other portions of the State. We could not imperil our own immediate objects by undertaking a more general organization, but we look forward to the forming of similar associations in other cities and counties, with which we hope to be affiliated, and if from them may grow an Association of the Bar of the State of New York, worthy of the past history of that Bar, powerful by its intelligence and learning, and influential by its integrity and patriotism, the benefits of such an association, not only to ourselves, but to the entire commonwealth, can hardly be overestimated.

WILLIAM M. EVARTS,  
HENRY NICOLL,  
HAMILTON W. ROBINSON,  
AUGUSTUS F. SMITH,  
WILLIAM E. CURTIS,  
WILLIAM C. BARRETT,  
JAMES EMOTT,  
CHARLES A. RAPALLO,

HENRY A. TAILER,  
STEPHEN P. NASH,  
SAMUEL B. GARVIN,  
SIDNEY WEBSTER,  
JAMES C. CARTER,  
JOHN E. PARSONS,  
WILLIAM G. CHOATE,  
FRANCIS C. BARLOW,

*Executive Committee.*



## BAR MEETING.

*Tuesday, February 1, 1870.*

At 8 o'clock, Mr. ALBERT MATTHEWS called the meeting to order and said :

### REMARKS OF ALBERT MATTHEWS, Esq.

The Bar of this City, by the last printed list (which is contained in Gould's Lawyer's Diary of the present year), is composed of about four thousand members. Except the "Law Institute," which is, practically, nothing but a consulting library, open during the business hours of the day, there is no organization in the legal profession; or, at least, none which is generally known. During the last year, however, about two hundred members of the New York Bar (most of whom are now present), have united in forming an Association, by written articles (which I have before me), united, I say, for the purpose of organizing the legal profession in this City.

As I understand it, the object of this NEW YORK BAR ASSOCIATION is, by the cultivation of more intimate relations among its members, to put and maintain the legal profession in its proper position in this community, and thereby to promote those public interests with which it is closely allied. Having that object in view, we confidently hope and believe that all right-minded men, both in the profession and out of it, will rejoice to see this organization perfected and in successful operation.

The members of this Association have requested Messrs.

Carter, Robinson, and myself to call you together, for the purpose of enabling you to take such measures as you may think proper for perfecting this organization, in order to carry out the design expressed in these articles, which we have all signed. To that end we have called you together to-night; and, in order to put this matter in motion, I will now nominate Mr. EDGAR S. VAN WINKLE as Chairman of this meeting.

Mr. HENRY NICOLL seconded the motion, which was carried unanimously.

Mr. S. P. NASH nominated for Secretaries of the meeting Messrs. Grosvenor, P. Lowry and John E. Parsons; who were also elected unanimously.

Mr. LOWRY read the call for the meeting, as follows:

The undersigned Members of the Bar of the City of New York, believing that the organized action and influence of the Legal Profession, properly exerted, would lead to the creation of more intimate relations between its members than now exist, and would, at the same time, sustain the profession in its proper position in the community, and thereby enable it, in many ways, to promote the interests of the public, do hereby mutually agree to unite in forming an Association for such purposes.

And we do hereby appoint Messrs. James C. Carter, Albert Matthews and Edmund Randolph Robinson, a committee to call a meeting of the subscribers at such time and place as may be designated by said committee, at which meeting measures shall be taken for the organization of the proposed Association.

New York, December, 1869.

Wm. M. Evarts.  
Henry Nicoll.  
William Allen Butler.  
John K. Porter.  
A. J. Vanderpoel.  
C. Van Santvoord.  
Thos. C. T. Buckley.  
D. P. Eaton.  
A. Underhill.  
D. D. Lord.

Waldo Hutchins.  
Lucien Birdseye.  
Charles P. Crosby.  
Benjamin K. Phelps.  
Abm. R. Lawrence, Jr.  
Charles Coudert, Jr.  
L. L. Coudert.  
John Erving.  
John H. Platt.  
S. J. Tilden.

F. N. Bangs.	H. M. Ruggles.
Henry H. Anderson.	Everett P. Wheeler.
Edwards Pierrepont.	Charles A. Rapallo.
E. H. Owen.	Charles P. Kirkland.
H. M. Alexander.	W. W. Macfarlane.
Ashbel Green.	Charles A. Davison.
Wm. M. Prichard.	F. R. Coudert.
Wm. G. Choate.	Charles Jones.
Rich. S. Emmet.	C. J. DeWitt.
Clarkson N. Potter.	J. Frederic Kernochan.
Thos. H. Rodman.	J. W. Edmonds.
B. F. Dunning.	William Hildredth Field.
John J. Townsend.	Charles H. Glover.
Sidney Webster.	Buchanan Winthrop.
C. A. Seward.	Frank E. Kernochan.
Charles M. Da Costa.	Elial F. Hall.
Aug. F. Smith.	John M. Knox.
Luther R. Marsh.	Herbert B. Turner.
Joseph H. Choate.	Charles P. Kirkland, Jr.
Chs. F. Southmayd.	John McKeon.
Charles E. Butler.	J. W. Ostrander.
S. P. Nash.	W. A. Ogden Hegeman.
Samuel E. Lyon.	William Barrett.
Alexander Hamilton, Jr.	David Thurston.
David Dudley Field.	William Henry Arnoux.
E. W. Stoughton.	Charles C. Jones, Jr.
James Emott.	Franklin A. Wilcox.
Benj. D. Silliman.	Theodore M. Davis.
John Slosson.	Charles D. Ingersoll.
Charles A. Peabody.	Edmund Randolph Robinson.
E. Louis Lowe.	Henry R. Winthrop.
George N. Titus.	Henry Hilton.
John P. Crosby.	John S. Jenness.
Albon P. Man.	M. Van Buren Wilcoxson.
John E. Parsons.	E. L. Fancher.
E. C. Benedict.	Charles F. Sandford.
J. S. Bosworth.	John Whipple.
Edgar S. Van Winkle.	F. S. Stallknecht.
G. M. Speir.	Grosvenor P. Lowrey.
Henry A. Cram.	Andrew Stewart.
F. F. Marbury.	Edward Holland Nicoll.
Wm. E. Curtis.	Frederick Smyth.
Murray Hoffman.	Lyman W. Bates.
Hamilton W. Robinson.	James S. Huggins.
J. E. Burrill.	John Berry.
J. W. Gerard, Jr.	F. J. Fithian.
Alvin C. Bradley.	Edward Patterson.
George T. Strong.	E. Ellery Anderson.
William Betts.	Jos. B. Lawrence.

Charles E. Strong.  
 A. P. Whitehead.  
 T. R. Strong.  
 Wm. J. Hoppin.  
 Lewis L. Delafield.  
 Charles F. Blake.  
 Livingston K. Miller.  
 Wm. S. Opdyke.  
 John E. Ward.  
 Charles B. Stoughton.  
 Albert Matthews.  
 Flamen B. Candler.  
 Philo T. Ruggles.  
 B. Roelker.  
 William Tracy.  
 Ch. Francis Stone.  
 George Wales Soren.  
 George M. Miller.  
 Wheeler H. Peckham.  
 Theodore W. Dwight.  
 Oscar Smedberg.  
 Henry J. Scudder.  
 Townsend Scudder.  
 James P. Lowrey.  
 Henry D. Sedgwick.  
 Richard H. Bowne.  
 Smith Clift.  
 G. W. Watson.  
 Charles D. Burrill.  
 Elbridge T. Gerry.  
 Charles Tracy.  
 Charles Edward Tracy.  
 J. Evarts Tracy.  
 George De Forest Lord.  
 John C. Dimmick.  
 J. S. Winter.  
 Joshua M. Van Cott.  
 George W. Parsons.  
 Hiram Barney.  
 John Sherwood.  
 Walter L. Livingston.  
 Albert Stickney.  
 Henry A. Tailer.  
 Alfred L. Edwards.  
 Aug. R. Macdonough.  
 W. W. Goodrich.  
 S. Merrihew.  
 D. C. Van Cott.  
 Beverly Robinson.  
  
 George C. Barrett.  
 Henry R. Beekman.  
 Charles B. Moore.  
 Noah Davis.  
 Julien T. Davies.  
 Gerard Beekman.  
 J. Slosson.  
 Eugene H. Pomeroy.  
 Hamilton Morton.  
 Thomas C. Ingersoll.  
 Richard H. Clarke.  
 Frederick Kapp.  
 Edmund Whetmore.  
 C. A. Hand.  
 F. H. Churchill.  
 Henry E. Davies.  
 R. M. Harrison.  
 Robert Sewell.  
 E. G. Drake, Jr.  
 Henry B. Hammond.  
 W. Q. Morton.  
 Henry Whittaker.  
 Thomas M. Wheeler.  
 Charles E. Whitehead.  
 John N. Whiting.  
 G. M. Ogden.  
 Cadwallader E. Ogden.  
 Robert Benner.  
 William Betts.  
 John J. Townsend.  
 John S. Davenport.  
 John J. Latting.  
 John L. Cadwallader.  
 Edward H. Anderson.  
 Charles Nettleton.  
 John A. Foster.  
 Smith E. Lane.  
 Thomas E. Stillman.  
 Thomas H. Hubbard.  
 Morris S. Miller.  
 John G. Vose.  
 Dwight H. Olmsted.  
 James J. Roosevelt.  
 Frederick E. Mather.  
 William Watson.  
 John H. Risley.  
 C. B. Wheeler.  
 E. S. Ketchum.  
 J. P. Ketchum.

William Jay.	E. Ketchum, Jr.
John A. Weeks.	John Fitch.
Hooper C. Van Vorst.	Samuel G. Glassey.
George H. Forster.	James R. Jessup.
James F. Dwight.	Joseph B. Varnum.
James C. Carter.	P. W. Turney.
Jos. Larocque.	Osborn E. Bright.
W. Stanley.	Benjamin T. Kissam.
Francis C. Barlow.	Henry P. Townsend.
Charles H. Hunt.	

**REMARKS OF EDGAR S. VAN WINKLE, Esq., *the Chairman.***

GENTLEMEN AND FELLOW MEMBERS OF THE BAR,—We have met this evening in pursuance of the call which has just been read to you. I thank you for the honor which you have done me in appointing me to preside over your deliberations this evening. It is an honor which is peculiarly gratifying to one who, like myself, has never sought for distinction outside the ranks of his profession. The paper to which we have subscribed our names expresses, as I understand it, the motive which has actuated us in coming together, and the objects which we desire to attain. The motive is found in “the belief that the organized action, and influence of the legal profession, properly exerted, would lead to the creation of more intimate relations between its members than now exist.” The objects sought to be attained are also expressed in the call in a concise yet comprehensive manner, namely: “sustaining the profession in its proper position in the community, and thereby enabling it in many ways to promote the interests of the public.”

First, then, gentlemen, let me say a word or two upon the organization of the members of the Bar into an association, in respect to which the Bar of New York has hitherto been sadly deficient. Some of the public papers I notice have put the inquiry, with much point, why the members of the Bar are forming an organization just now,—as if there was some peculiarity, something extraordinary, something mysterious in the proposed organization. If they had asked us, gentlemen, why the Bar had not done this thing long ago,

it would be more difficult to reply to the question. The Bar of New York owes to itself, and has for many years owed to itself, an organization similar to that which I understand is now contemplated. In organization we shall find strength and a force and power which no individual action, however capable, could ever attain. It seems to me, gentlemen, that while we are entitled to this organization, and while we must derive from it a great strength and a concentrated power, there will not be any need of aggressiveness of action on our part towards any body or any person, unless it be that passive aggressiveness which a good example always exercises against an evil example, and that silent aggressiveness which a principle of right will exercise over a principle that is wrong. [Applause.] There will, however, be in such an organization as this, when properly formed, a power of aggressiveness, if the occasion arrives; and at all times the organization, if not aggressive, will at least be defensive. Its numbers will give it strength, and their united opinions and influence will, I am sure, be able to shield its members individually and collectively from all wrong, injury, and oppression. [Applause.]

Association will as a matter of course produce the more intimate relations between the members of the profession alluded to in the call; and if among our objects there shall be, as I know there must be, a desire to maintain a high tone in the legal profession, to repress all dishonorable practices, and to cultivate a laudable ambition and emulation among lawyers; if successful in attaining these objects, then I am sure we shall be able to restore the legal profession to its proper position in the community—in that community, of which we are the advisers and the counsellors; we can restore it to the position which it has occupied in the past, which it is clearly entitled to occupy in the future, and which it ought to occupy in the present.

I will not, gentlemen, detain you longer from the business of the evening except by a few words. Upon our action and deliberation, upon what we do or resolve to do this

evening, will depend the success or failure of this organization. I hope, then, that in laying the foundation we shall exercise intelligence, discretion, moderation, and, above all, the utmost forecast, in the provisions which we may adopt. If we do this we can erect a solid, a stately, and a useful edifice, from which I trust we shall be able to send forth a powerful influence in favor of whatever is good, of whatever is right, of whatever is honest, and of whatever is honorable. [Applause.]

The meeting is now ready to proceed to business.

**Mr. HENRY NICOLL :** I beg leave, sir, to offer the following resolution :

*Resolved*, That a Committee of nine be appointed by the Chair for the purpose of preparing a suitable Constitution and By-laws for this Association, and that such Committee report at the next meeting.

The resolution was seconded, and Mr. Nicoll spoke upon it as follows:

#### REMARKS OF HENRY NICOLL, Esq.

**MR. CHAIRMAN AND GENTLEMEN**—I desire to address a few words to this meeting in explanation of the motives and objects which have influenced those of us who set on foot the movement for this organization, which it is proposed this night to establish.

It will not be denied that there is a common belief, not only among ourselves, but among all classes of our citizens, that the bar of this city fails to exercise that influence which is justly due to it. This is a melancholy fact; we look for the causes of this decline. Where are they to be found? Some of us who, perhaps, are of a more despondent nature, may be inclined to attribute this decline of the profession to a general demoralization which is permeating, as they fancy, the very vitals of society. But I do not belong to that class. I believe that the causes of this decline are

nearer to the surface. In my opinion they are to be found among ourselves. I believe that if the bar should be animated by proper sentiment it would soon regain that influence which, it is painful to acknowledge, has been lost. [Applause.] This decline, gentlemen, has been insidious, it has been steadily going on for more than twenty years; it has at last become so marked that we cannot become indifferent to it. The best evidence that the time has arrived when an effort should be made to arrest the disease, is the fact that there is such an assembly as this here to-night. [Applause.]

The most prominent of the causes of this decline is to be found in the revolutionary changes made in our condition by the Constitution of 1846! That Constitution, under which we still live, gave almost a death blow to the legal profession. Disastrous effects could not but flow from the organic changes made by that instrument. It is true they were not at first realized. We went along submitting to the inevitable tendency of things without perhaps appreciating how rapidly we were drifting down the current; but, gentlemen, when the gates of the Bar were thrown entirely open; when those honorable distinctions which formerly existed in the profession were abolished; when the name of counsellor ceased to be heard in the land, and when every man, from the merest tyro to the greatest and most renowned amongst us, was put upon the same footing, it became a necessary result that without some link which should connect and bind the more worthy of the profession together, it must accept its destiny and be eventually destroyed. [Applause.]

The diminished influence of the Bar, it is true, may be due also in some measure to the radical change which has been made in our Judicial System, but it is unnecessary and it may be improper to speak of that now.

We are here simply concerned with ourselves, and not with the Judiciary. The more you reflect on this subject the more will you have reason to believe that the great evil exists in the fact that this Bar has been reduced to a mere

collection of individuals without class or rank—a dull dreary level of enforced equality; perhaps it may sound strange in a democratic community to talk in this way, but I apprehend that, outside of political rights and relations, distinctions must exist everywhere—they are necessary for the very welfare of society. [Applause.]

We have come together to-night to endeavor to correct this evil, and to form an association by which a freer interchange of ideas and more intimate relations with each other may be promoted among the Members of this Bar, and to supply, to some extent at least, the great defect in our system of which I have spoken. It is in that spirit that the gentlemen who have undertaken to organize this association are here, and they rely upon your active co-operation and assistance in the business. [Applause.]

Need I say to you that one of the most important features of this remarkable age is the power attained and the great results effected by association. You have only to look at our telegraph across the ocean and at our great railroads which span the continent, to see what may be accomplished by combination. You will find that the great Law which originated the organizations which have effected such astounding results is the principal of association.

All classes, all professions, save that of the Lawyer have their associations. The humblest artizan in the land falls back upon his trades-union and too often is enabled for the time to bid defiance to capital. Why is it that we, the most important class in the community, conservators as we are of Justice, sworn officers of the Courts,—why is it that we are as incohesive as the shifting sands of the ocean beach? Shall this be permitted to continue? Can we not in some way infuse among our members a better idea of their high and lofty calling? Can we not create an organization through which the profession may be educated up to a fitting sense of its grave and elevating responsibilities, and of the position which it ought to occupy in this community. I need not dwell upon the importance and dignity of the

legal profession ; we all know that there can be no more responsible office than that of a Lawyer, and that if you have not a Bar, and let me say, an independent Bar, that will stand up against oppression and can protect the weak and the defenceless, society will dissolve itself.

Now, gentlemen, I know that there may be much difference of opinion as to the special objects of this association ; I fancy that there are not a few who will perhaps think that it is formed in a spirit of hostility—that its object is attack. I hasten, for myself and every other gentleman associated with me, to deprecate any such idea, and to disavow any such intent. This Association is in an embryonic state. We are weak. We associate for mutual protection and assistance ; we are not in a position to assume offensive operations. What we want is to create a spirit of professional brotherhood, to create in the members of our profession a regard for the profession. [Applause.] When we shall have done that we shall have accomplished everything. When we shall have brought within our ranks, as I confidently hope we shall do, all that is intelligent, all that is honest, all that is honorable in this Profession, when we shall number our members by thousands, do you think we shall need to concern ourselves about the influence which this Association must inevitably acquire ? Fancy all the intellect and respectability of the Bar enrolled, united and actuated by a common purpose. Who can limit its influence,—who will dare to say what it may not accomplish ? Let me tell you that this profession, when thus united, thus animated, will be able at least to protect itself from aggression come from what quarter it may. [Applause.] The time will assuredly arrive when this will be so ; but we are not here to-night to speak of what may hereafter be done : we are simply making a beginning. If we can but induce our brethren to enter this organization and to co-operate zealously in building it up, the future will take care of itself.

Gentlemen, it is singular that there never should have

been any association of this Bar within the memory of its living members. Even in the days when Kent and Spencer and the other illustrious men who adorned our Bench were living; when the great names of Wells and Emmet, and Ogden and Slosson, and the many others which will readily occur to you, shone as the brilliant lights of this Bar, there was no organized Association of its members; but we know that in those days the Bar in this State stood as high as the Bar of any other State or Country. And why? Because the individual lustre of its leaders gave to it a power which was irresistible. Perhaps, if an institution like this which we now propose to form had existed at an earlier day, it might have done much in arresting the decline which we all see and which we have so much cause to deplore.

It is a curious fact, and it may not be known to you all, that more than a century and a quarter ago there was a Bar Association existing in full vigor in this City of New York. We have no trace of the nature of that organization. History has not busied itself with what perhaps was then considered a little thing. We know not who were the members of that Association, or what was its constitution; but one thing we do know—we know what it did.

In the year 1763, when Lieutenant-Governor Colden was administering the affairs of this colony, being ambitious of extending the prerogatives of the Crown, he fancied that under the instructions he had received from the Home Government, a right was given to him, with his council, to review upon appeal the findings of a jury upon questions of fact. Before that time the same rule prevailed here which obtained in the parent country, that is, that a writ of error was the only way of reviewing a common law judgment, and that upon that writ no questions but those of law could be brought up. But the Governor, ambitious of exercising this control, determined to issue a writ of appeal upon a common law judgment, for the purpose of reviewing the decision of a jury. The writ was sealed by him; but, gentlemen, to the credit of the legal profession of that day, not one soli-

tary lawyer could be found who would argue that appeal ! [Applause.] The Colonial Governor, as you may suppose, denounced the New York Bar, and in a letter to the Home Government he speaks of this Bar Association, which, as he said, had been formed about 1747, as exercising a most dangerous control and influence in the City of New York. That was the New York Bar of a hundred and twenty-five years ago ! Gentlemen, have we lost all the spirit of our forefathers ? Now come down with me three years further. In the year 1766, as you all know, the British Government commenced its course of tyranny over this country by its first Stamp Act. You know, as a matter of history, that the passage of that act was received with a storm of indignation in every one of these thirteen Colonies ; but, gentlemen, do you know that there was no place in the whole country where the resistance to this odious measure was more determined and effectual than in this city of New York ? When the vessel, which brought the stamped paper here, arrived, such was the excitement of the people that her officers were obliged to anchor her under the guns of a frigate ; when the packages of stamped paper were taken from the vessel, the demonstrations of hostility were so great that the Governor was forced to consent that he would not put the law in operation, and he deemed it prudent to surrender the stamped paper to the Mayor and Corporation of this city. Now, gentlemen, who was it who organized and marshalled this resistance ? I am proud to say it was this same Bar Association. The Governor had denounced it in vain three years before, but now on a vastly larger theatre of action, it proved itself to be equal to the emergency. You know, as matter of history, that the Crown was foiled in this its first attempt, and reluctantly repealed the stamp law, but the Governor, disheartened by failure, demanded of the Home Government that measures should be at once taken to diminish the influence of the lawyers in the affairs of this Colony. What comfort should this be to all of us in looking back upon what our forefathers did ; and when any of

my friends—as too many of them do—shrug their shoulders in the very bitterness of despair, and say that nothing can be done but turn on our backs and die, I ask them to remember what the Bar of these early days achieved. What they did, we, too, may do. And when this organization, which we are now seeking to form, shall grow in strength,—when it shall become a body all compact, when its muscles, and sinews, and nerves shall have attained their full vigor,—it will be able to do great things for the profession and for the community.

Now, gentlemen, I have perhaps detained you too long with these general remarks. You will be more interested to hear something from me of what we, who have cheerfully undertaken the business of bringing you together, have considered the objects to be attained by this organization.

We desire to make this organization such that every lawyer in this city, of respectability, who desires to do so, may join its ranks. We propose to open rooms in some convenient locality, and to supply them with as good a library as our funds will allow, so that there the elder and younger members of the profession may meet during the evenings, and at other times, to take counsel together and talk over the wants of the profession, and where, if they have occasion to study their causes, they shall find a convenient working library. Beyond that, we have not yet ventured to advance a step. Doubtless many of you here have your views on the subject. You will be able to aid us greatly by the expression of your ideas as to the manner in which the Institution should be established and carried on. For myself, however, I confess that I think the great object that overrides every other is *to get our organization*. I am for organization, organization; convinced, that with that once achieved, we may safely trust that all that we hope to accomplish will be fulfilled in the not distant future. [Great applause.]

The Chair then offered Mr. Nicoll's resolution and it was adopted unanimously.

## REMARKS OF HON. EDWARDS PIERREPONT.

I think we shall find, gentlemen, that our success in this movement will depend entirely upon what my friend has just urged—organization; and the kind of organization that we make is of the utmost consequence. If we start in this organization wrong, we shall be likely to fail, just as a government that starts with a wrong basis of government is likely to fail; and if we start right, we shall be likely to succeed. I do not believe that an organization of this kind will amount to anything if it is formed merely for the purpose of meeting socially, or for the purpose of having an occasional dinner. Unless the plan which this committee shall propose shall present something worthy of being enduring, the organization will not endure; and I think it will depend, more than would at first seem, upon the mode in which the organization is formed. I do not believe that anyone who has never thought of it is very well aware of the power which grows out of combination. If you will take three men combined together and go across the Atlantic and put them in some strange place in Europe, you will find that those three men have each a very far increased influence and power, more than the three would have separately. If you find half a dozen men in any body of men, and those half dozen have agreed upon anything, they will have more power to advance their plan than an hundred would have without organization. It is just as true in our profession as it is true in war, in social life, and in politics. Such was the power which the South had at one time in the control of the government. Small as it was, yet there was a perfect and complete organization, which grew out of caste—a class, all the members of which agreed, and in consequence of which agreement, they were able to control the nation.

If the organization is so framed, that its first business is to control itself, and allow no man to enter or remain whose conduct is not that of a lawyer and a gentleman, we shall

succeed. Courage will be required, and vigor will need to be exercised, and unworthy men must be excluded, and, if need be, ejected. But, if it is an organization in which a man may remain and do those things which no lawyer ought to do, and which no man of honor would do, the organization will fail, and it ought to fail.

The Bar of this city numbers some four thousand members.

Many of middle age and past are rich. No combination of property has ever been made by the Bar, no influence has ever been attempted for good in that direction. Whatever of Law there is, has been scattered, and there are few lawyers who, at some time in their lives, have not felt unpleasantly at the way in which they were put off by the clerks in Banks, when they needed some temporary accommodations. If the capital of lawyers were combined and organized as is that of other classes of men, the young lawyer might better reap the reward of his good character, his uprightness, and his industry.

Does any man doubt that if you combine a thousand lawyers of respectable character and position, who shall meet together frequently, who have a sentiment in common, who have a desire to stand well with the organization, and who feel the influence of its frown and the pleasure of its approval, they will have a power that would exercise an influence in Albany, that would exercise an influence in this city, that would exercise an influence in Washington, that would exercise an influence everywhere over the entire country? This profession of ours does not tolerate idiots in its ranks. The successful men of our brotherhood are men of intelligence. They are men of character, if they are successful. Without these they cannot succeed; and if there is an organization that will be determined to protect the profession against itself, and thus command the respect of the community—an organization which shall place its condemnation upon those of its members who misbehave, it certainly will be able to exercise a very powerful influence in correcting

others. I have not any doubt that this organization which is proposed, will be able to bring into it certainly one-fourth of the Bar, and if you have one-fourth of the entire Bar of New York organized together in this way, they will form so large and influential a body as to awaken a desire in all worthy members of the profession to join us. I am quite sure that all who are in it would be desirous to bring in every younger man who is a fit associate for them, and would do what they could to encourage him in the course of honor and success in that noble profession to which we are all so proud to belong. The time was in this country when lawyers were by far the most powerful class. For a long time they ruled this country. That was well understood. They ruled the Senate at Washington. They ruled the Cabinet at Washington. They made the laws which governed the nation. They were at that time a powerful and honorable and a most useful and influential body of men. They ruled the nation well. For some reason, however, other organizations or associations, or other classes of people, who somehow combine more thoroughly than we combine, have been able to take our place, and it is certainly well known that at present lawyers do not, relatively, exercise that power in the making of laws or in the government of society which they once did ; and, therefore, so far as that goes, they are not as useful a body as they once were. The fault is our own ; we have been found wanting.

Now, there is something very remarkable in the action of this association. When it was started I have no doubt that many said, as my friend Nicoll has remarked, "Nothing can be done ; how is it possible to accomplish anything ? How can you make a stand against this tide that is rolling over the country ?" I know there was much of that feeling. I was a sharer in it myself.

The fact that the feeling was so general, the fact that every man felt that there was danger, the fact that every honorable member of the Bar was beginning to feel that the honor and the glory and the power and the good influence

of the Bar was departing, explains the reason why there was such a ready response to this call, which has brought nearly every one of the two hundred to this meeting to-night. In this respect I have never known a meeting so remarkable, where on a single notice, they all appeared and took part in it. [Applause.]

#### REMARKS OF MR. JAMES EMOTT.

Mr. CHAIRMAN,—I am not prepared to say anything which will really add to what has been already said. But I am ready to express my concurrence in the spirit of the remarks which have been made, and my strong sense of the importance of the object for which we have been called together. I think, however, that this is not the time for us to consider or at least to discuss what are to be the ultimate results of such an association as we propose to form. It is not to be concealed that there is a deep undercurrent of feeling among the lawyers who have signed this call, and who make up this significant meeting, upon certain subjects. There is an undertone in what has been said which it would require but little to bring into distinct utterance. We as lawyers feel deeply the complaints which are rife of abuses in the practice of lawyers and in the administration of the law. But I do not think that we are ready now and here to give utterance to our wishes. There may be differences of opinion whether our course should be defensive or aggressive, whether we are to be passive or active. But this assemblage indicates our agreement that we ought to associate, to organize, in order to obtain power,—the power which comes from organizations. Power is the thing we are first to aim at. The use of it we are to determine afterwards.

I think I can express the idea of this association, and the purposes for which it is to be formed, by saying that we shall aim to make ourselves once more a *profession*. [Applause.] Twenty-five years ago a series of changes were brought in, or at least begun by the Constitution of 1846,

of which my friend, Mr. Nicoll, speaks feelingly, because he was one of its fathers.

Mr. HENRY NICOLL—Spare me that. [Laughter.]

Mr. EMOTT—That Constitution gave us the elective judiciary, of which I am not even to speak. But it brought another change quite as serious. It broke down the Bar, and destroyed in effect, so far as the courts and the laws were concerned, what was then the profession of the law. We have become simply a multitude of individuals, engaged in the same business. And the objects and the methods of those engaged in that business are very much dictated by those who employ them. It is not altogether just to hold lawyers responsible for the evils in the administration of law of which the public complain. They are and do simply what their employers desire, and they will rise no higher, if they have no higher standard. So the judges are and will be just what those who really make them wish them to be. [Applause.]

How great a power this power to make the Judges of a country is, whether in responsible or irresponsible hands, no man who has thought at all upon the history of the past, or the conditions of the present, is ignorant. In this country there are three great questions looming up with fearful importance. One is the Government of Municipalities. Another is the question of Popular Education. With these we have only the concern of all citizens. But the third is the Judicial Administration of the Country. That is a subject in respect to which we shall be expected and required, from our training and our pursuits, to think and to act. How, as well as for what we are to act, are matters to come up hereafter. I think we are not ready to discuss them now.

There is one reason, to which I will refer, why this present time is very opportune and proper for the organization of the Bar. The people have recently adopted a modification or amendment of the judicial system of the State. Of the wisdom of this partial change it is too late to speak. It has

been made and under it questions are rapidly arising, not merely as to the selection of men for the important offices to be filled, but in respect to the organization and working of the system itself. Upon these questions, we not only have a right, but we shall be expected to be heard. In order to speak, to exert proper influence, we need to be organized. We want power at this juncture, and we can only have it by association. As a profession we may make ourselves felt even now in the settlement of the question which this crisis brings upon us, and upon the State.

I do not mean that we are prepared this evening to enter upon any discussion of any proposed reforms or reconstruction. It will be time for that, so far as we personally are concerned, when an organization has been completed, and our association has assumed its permanent form. When we have an organized Society representing the profession of the law, affording advantages and possessing a character, which will make it desirable, if not necessary, for every worthy lawyer in this City to belong to it, we shall possess a power which I trust will be felt, and not a tithe of which can be wielded by the same number of separate individuals.

It will not involve very long delay to await such an organization, for I am confident that the gentlemen who have conducted this movement so successfully to its present point, will speedily develop its completion in outline, if not in details. That will enable us to do our duty and contribute our aid to the settlement of great public questions, not only as men and citizens, but as members of a profession which we all delight to forward and to advance. [Applause.]

#### REMARKS OF SAMUEL J. TILDEN, Esq.

My friend Mr. Nicoll has just come across to me to insist that I should say something here to-night. I presume his object is that I should say something in defence of that judicial article of the Constitution of 1846. He probably thinks that I have, with him, a common interest and a common duty

in that respect ; but, sir, I disclaim every interest and every duty in that connection. I remember, with the utmost satisfaction that, section by section, in every part and in the aggregate, I recorded myself against the whole thing.  
[Applause.]

Mr. NICOLL—Do me the same justice.

Mr. TILDEN—I don't remember what my friend did. I presume he did what was right. He asks me to do him the same justice, which I most cheerfully do.

Sir, I came here to-night, simply because when this call was tendered to me I signed it, and thought it a duty, humble as I am, to testify by my presence here my sympathy and my approval of the general objects for which we have assembled. I do not quite concur, however, in some of the suggestions that have been made here. I do not, I mean, quite concur in them in this—that they do not quite express the ideas of their authors, or of any of us.

Sir, I should be not unwilling that the Bar should combine to restore any power or influence which it has lost, except such power and influence as it may have deservedly lost. As a class, as a portion of a community, I do not desire to see the Bar combined, except for two objects. The one is to elevate itself—to elevate its own standards; the other object is for the common and public good. [Applause.] For itself, nothing; for that noble and generous and elevated profession of which it is the representative, everything. [Great applause.]

Sir, it cannot be doubted—we can none of us shut our eyes to the fact—that there has been, in the last quarter of a century, a serious decline in the character, in the training, in the education, and in the morality of our Bar ; and the first work for this Association to do is to elevate the profession to a higher and a better standard. [Applause.] If the Bar is to become merely a method of making money, making it in the most convenient way possible, but making it at all hazards, then the Bar is degraded. [Applause.] If

the Bar is to be merely an institution that seeks to win causes and to win them by back-door access to the judiciary, then it is not only degraded, but it is corrupt. [Great applause.]

Sir, I am as peaceable a man as my friend Nicoll, yet I confess that his words of peace sounded a little too strongly in my ears. The Bar, if it is to continue to exist—if it would restore itself to the dignity and honor which it once possessed—must be bold in defence, and if need be, bold in aggression. [Great applause.] If it will do its duty to itself, if it will do its duty to the profession which it follows, and to which it is devoted, the Bar can do everything else. It can have reformed constitutions, it can have a reformed judiciary, it can have the administration of justice made pure and honorable, and can restore both the judiciary and the Bar, until it shall be once more, as it formerly was, an honorable and an elevated calling. [Applause.] I do not know, sir, in what form this is to be done. I do not know in what form this institution, which you are now initiating, is to establish itself. I have had no part in any preliminary consultation, but I am sure that you are right in taking the first step to-night, which is, to organize yourselves into a body, and then, without passion, without pre-conception, with deliberation, with fixed purpose, with settled design, I believe that you may go forward step by step, through the days and years that are in the future, and become a blessing to this great community of which you are a part. [Applause.]

Sir, the City of New York is the commercial and monetary capital of this continent. If it would remain so, it must establish an elevated character for its Bar, and a reputation throughout the whole country for purity in the administration of justice. [Applause.] I had lately occasion to express the opinion in private which I now repeat here to-night, that it is impossible for New York to remain the centre of commerce and capital for this continent, unless it has an independent Bar and an honest Judiciary. [Great

**Applause.]** I do not mean, by this observation, to allude to any particular individuals; still less do I mean to cast any reflection upon the general character of the Judiciary of this State. But I felt, in 1846, when we embarked in that great revolutionary change in the Judicial system, which was made by the constitution of that year, that it was extremely likely that the system itself would develop evils under which human society could not well get along. I had great doubt last year about what ought to be done in regard to the Judicial amendment that was adopted. Considering it a decided and valuable improvement as to the constitution of the Court of Appeals, I yet reflected that it not only left most of the practical evils and abuses of the Judicial system untouched, but, perhaps, to some extent confirmed them in existence, and that there was great danger in the adoption of it, that the public sentiment, especially of the rural districts, would be satisfied to such an extent that we should be compelled to live under this Judicial system another quarter of a century, which for you Mr. Chairman, and me, will probably be the most part of the residue of our lives. [Laughter.] Sir, I believe that this country is to-night at about the lowest point in the great cycle which we have occasionally to traverse. I believe that there will come a sounder and a better public sentiment, in which speculation, and gambling, and jobbing and corruption will lose their power, and in which free government will vindicate its right to the confidence of mankind. If I did not believe this, I should think that a very great part of my own life was lost, and all the traditions I have derived from my ancestors. Sir, I hope that the society which you organize to-night will be an institution that shall do much valuable service towards hastening this consummation, so far as the Bar is concerned. [Renewed applause.]

## REMARKS OF E. W. STOUGHTON, Esq.

I did not come here to-night intending to say a single word, for I had supposed that this meeting would devote itself to the business, simply, of preparing, considering and passing the resolutions which I have heard read; and it seemed to me that a more proper time to consider somewhat at large the matters in which we are all interested, would be when we come together for the purpose of finally consummating and forming the organization which it is the purpose of this meeting finally to establish.

Now, I have heard it said here that the ultimate purpose of this organization will be to make us a profession; but let me tell the gentlemen who are present—most of whom I know, many of whom I regard with affection, and all of whom I respect—that to make ours a profession in the true sense, they must disenthral the Bar from the law which permits, nay enforces, the admission as members of persons who are not, by the length or character of their studies, fitted for it.

This is done under a law of the land—unknown until within the last few years; for we remember that twenty-five or thirty years ago—during that period in the history of our profession which made it so illustrious—students were required to pursue their legal studies in all cases for a stated period of years, before being admitted as attorneys, and were not then permitted to open their mouths in court, until they had practised as such during three years; but now I believe—we see it so advertised upon the leaves of our legal periodicals—that persons may be admitted, in one law school, not very far distant from our city, without previous examination, and after passing four terms—in all somewhat less than a year within the institution—are entitled to admission, as a matter of course, under the laws of our State. Now, gentlemen, if we are to be held responsible for the qualifications and fitness of members of our profession we should be able to control their admission to our Bar—a right which

substantially existed in this State, under the rules of court, before the change I have mentioned,—a right which exists in Great Britain at this day, and one which exists, and is recognized in most if not all of the New England States—a right to determine who shall be admitted and who shall be expelled, and for what. If we secure this, gentlemen, then we shall indeed become a profession, as the practitioners of medicine and of theology are a profession—for I believe they control the admission of their members, determine what their qualifications shall be, how long they shall study, and on what conditions they shall be admitted.

Further, it seems to me, Mr. Chairman, that we should practically consider another question. We need a library. The younger members of our Bar especially, need a library in a place where it shall be easily accessible; and I believe that those of us who take an interest in that subject will be quick upon the formation of this organization, to provide a building and a library where gentlemen of our profession may meet labor, and associate together and come to know each other better than they now do; and I for one shall rejoice to see that brought about. But I confess, that in my judgment, the time for talking about determining what is to be accomplished by this organization is yet some little distance in the future. In respect, however, to the practice of our Courts and Judges, to which reference has been made, let me say this, Judges should be protected by the law. They should be protected by the law so that no Judge, under any circumstances, can be required to grant an *ex parte* injunction; they should be protected under the law so that under no circumstances shall they be required to appoint receivers *ex parte*. [Applause.]

Now, I have heard it said that a general rule like that would breed mischiefs. I agree to it, but they would be trifles in comparison with the great mischiefs which exist under a practice which sanctions the granting of injunctions and the appointing of receivers by the hundred and the thousand—in substance, levying black mail upon parties who pre-

fer, rather than have their property tied up by injunctions and receivers, to yield to demands which are neither just nor maintainable. [Applause.] Now, I make these remarks in kindness to our Judges. The Federal Judges are protected in that way. Since 1791 no Federal Judge has been permitted, within this broad land, to grant an injunction *ex parte*; and I hope the day will come when we shall protect our State Judges against false and sinister affidavits and applications, so that when thus applied to they may be able to say: "The Law forbids this and we refuse it." But until that time comes it is the right of the party to have his *ex parte* injunction, and it is the duty of the Judge to grant it, and I leave it to my brethren to say how many injunctions thus obtained stand the test of opposing affidavits and resisting arguments. [Applause.]

#### REMARKS OF WILLIAM M. EVARTS, Esq.

I suppose, Mr. Chairman, that every one of the gentlemen here to-night is as much a mover in this effort to combine the Bar for useful purposes of interest, as any other. So far as I have made the subject a matter of conversation with my brethren of the Bar, with more or less of point in the conversation, during the last seven or eight years, I have found no difference of feeling and none of purpose; and I believe all that has been needed has been that some should take the responsibility and labor of collecting the sentiment of their brethren, as has been done by those who have signed the call for this meeting, to ensure an honest, a sincere, a brave, a considerate, a determined, a persistent, and an absolutely fearless, organization of the Bar of New York. [Applause.] I think there is nowhere in this matter to be seen, feared or suspected, a sinister, a selfish, a personal object either in respect to protection, defence, elevation, or attack; it is all public, all general, all noble and useful. Now, there have been felt, I think, to be several considerations which should induce the Bar, as scholars, as gentlemen

in a common pursuit of life, to combine their influence and the contributions of their resources, in a way which will afford us opportunities for the research and study which our profession requires, and for the consultation and communion with each other so important to it. I think we have all felt that to be a great, a numerous, a wealthy Bar, without a library adequate to our name, and suitable to our credit, without the means of association in the ordinary forms of intercourse on common grounds, during the hours of the day when we have any leisure or opportunity for such intercourse, was not only a reproach to us, but an injury to us. Without any special moral occasion, or any particular incentive of public duty in the public need, I think that in the minds of many there has been a purpose, whenever opportunity should serve or attention could be commanded, to induce a combination of the profession with such an object. I hope, sir, that this committee will consider these objects as a part of the organization proposed, and which must have sufficient of a substantial and acceptable interest to its members to keep us closely and permanently connected. [Applause.] With this general object and motive for combination, there is a more powerful and deeper, a more responsible and a more active sentiment, growing out of the condition of our profession and of the judiciary, and of the sentiments of this community towards both. Careless we have been, careless almost all the interests of society have been, of the great and perpetual trust which rests upon every generation in a free and equal community to see that they bear their share ever, not only in the enjoyment of the noble heritage that has come to us, but in its maintenance, its protection and its defence, and that they shall transmit it ever, not only unimpaired, but amplified—not only unpolluted, but ever brighter and fairer, to every succeeding generation. [Applause.] And we must not lose sight of this fact, that just in proportion as a society is free and equal in its constitution, just as there are no artificial and no permanent gradations in it, just as there are no rulers

and no captains, just so is it the more incumbent upon all in the only rank there is—the common rank—to see that they do not become selfish and isolated and envious and injurious, but that they cultivate sentiments of common purpose for the common interests. In institutions framed in this spirit must ever be the only form of power that an equal and free community can tolerate; and every institution must take care of itself, and not leave to the enterprise of its competitors and rivals the building up of itself.

Now, with these general observations, let us see how much the Bar can do for its own credit, its own power and the service of the community, and how much it can do towards maintaining the credit and character of the Judiciary—that weakest portion of our political system, that portion that has, or should have, no patronage or influence and no political authority, which is dependent upon its integrity, its learning, its capacity, its public spirit, and which must ever rest upon the Bar, as the chief interpreters to the people at large of its relation to the community, and as the principal means and agency by which it discharges its judicial duties in all its obligations to that community. For the Judiciary is not a spontaneous agency in the administration of justice. It never does anything solemn or *ex parte*, except by the invitation—the instigation, if it be evil—of a lawyer. [Laughter and applause.] Now, is it fair that the Judiciary of this State should stand in the general doubt, or general discontent, or general disregard of the community? that it should be subject to aspersion and to suspicion, and not feel, or be permitted to plead, that some lawyer was the first mover in every wrongful act of that Judiciary that brought it thus into contempt? Who does not reverence the Judiciary? Who does not, in the midst of the pressure, the excitement, the credit, the honor, the emoluments—opened so richly to prosperous lawyers here—respect every man who takes a place upon the Bench, and foregoes these bright and alluring invitations to fame and wealth? And who but feels struck,

in his own sense of manhood and of dignity, when the Judiciary, which is the crown and honor of his profession, is brought into disrepute? And who, when he reflects that his own profession are the moving parties in everything that is done by a Judge, good or ill, but feels that it is time for him to collect the honorable and upright and worthy men of his profession together, that they may put their finger upon the unworthy who take the lead, under whatever motives, in these injurious and weakening courses or proceedings? [Applause.] Why, Mr. Chairman, you and I can remember perfectly well (and we are not very old men), when, for a lawyer to come out from the chambers of a Judge with an *ex parte* writ that he could not defend before the public, before the profession and before the Court, would have occasioned the same sentiment toward him as if he came out with a stolen pocket-book. [Great applause.] Our knowledge of the profession and of the affairs of life teach us that from the other side we get new light and new wisdom, and then comes the solemn action of the Court, and we meet our adversaries, our brethren, face to face before the Judge; but as to what passes between the Judge and us *ex parte*, it is upon honor. [Applause.] Sir Jonah Barrington, in his Recollections of the Irish Bar, tells us, that this sense of honor and right, so far as depended upon the personal knowledge and skill of the lawyers engaged in any cause, was carried to such an extreme, that if a man demurred to a pleading at that Bar, it was considered a good ground for a challenge, as being an imputation upon the ability or the integrity of the pleader, and he says that many duels were fought upon that ground. But, without sharing this extravagance, really, Mr. Chairman, I think I have not exaggerated this matter of the duty and responsibility of the Bar in its dealings with the Bench.

Now, perhaps, I have said enough, but I will add that the situation is an extremely serious one. It is very difficult to make people believe, but still it is true, that if an institution contains corruption, and the line is not drawn closely

to sever it at once from the sound body, however honest, however earnest may be the purpose of the worthy members, the plague-spot is in the body, and the *whole is sick*. The disease is not local. It may be cured; but while the plague-spot lasts, the whole body suffers. The institution is suspected, the distinction between the members is not and cannot be known. I speak now of the Bar quite as much as I do of the Judiciary, and it is only when you attempt to make a rally of the powers left, to make the issue, that there shall be *no* disease, *no* corruption and *no* base aspersions without foundation, and that it shall not be permitted for men to scoff without cause at the administration of justice, either through the Bench or by the Bar, and make it plain, one way or the other, that the institutions are pure and strong, or, that they are vicious and corrupt—it is only by that rally, that we can restore health and strength, and confidence. And that is the purpose of this rally to-night.

—[Applause.] It is aimed at no other object than the evil itself—to ascertain it, to measure it, to correct it, and restore the honor, integrity and fame of the profession in its two manifestations of the Bench and of the Bar.—[Prolonged applause.]

#### REMARKS OF D. B. EATON, Esq.

It is not my purpose, Mr. Chairman, to submit any observations upon the general subject which has called us together. No one can take a deeper interest than I do in the results of this meeting, or feel more gratified at the spirit of earnestness, conciliation and harmony which has been so strikingly and hopefully exhibited. I have been requested, by the gentlemen who have devoted themselves with so much self-sacrifice to bring about this meeting, to offer a resolution, which is in consonance with what we have done, and which, as I trust, will contribute to secure the results which I am sure we all seek. While I am certain that the sentiment pervading this gathering is so har-

monious that if each person present should state in writing for what reason he came here, and what are the leading objects he wishes to accomplish, we should find no very material differences in these statements, it would yet doubtless be found that there is much diversity in details, that there are different theories as to the best method of organization.

It must also be apparent that the early stages of an organization such as we propose are likely to be the most difficult, and we do not start with the benefit of any experience in organized action on the part of the members of this Bar. This generation, at least, of New York Lawyers has not been in the habit of acting in common in reference to such matters as are now likely to engage our attention.

Our habits and relations have mostly been those of opposition to each other in representing the conflicting interests of our clients. We now, for the first time, propose to cooperate together in elevating our profession to the position which it should occupy to best enable us to promote alike the private interests of those who employ us, and the public interests of the whole community. And it is one of the happy features of our enterprise that the organization and action which will enable us to attain these ends will contribute to our personal consideration and to our usefulness in the administration of justice in our capacities as officers of the Court. It is one of the felicities on which we may congratulate each other, that the discharge of our duty to ourselves will be in great measure the discharge of our duty to the judicial tribunals, to the State, and to our clients.

The resolution already adopted will give us a Committee to frame the Constitution and By-Laws under which we shall act. But we need officers to fill the official places and committees under the Constitution. We need men, carefully selected, who will be willing to give us the time, the labor, the patience, the spirit of conciliation, and who will make for us the generous self-sacrifices, which the first year of this new experiment in organized action cannot fail to demand. We want men who have faith in our work, who

will bring courage to its execution, and who, at the same time, fairly represent the wishes, the opinions, the ability, and the character of the profession, on which we must rely to sustain this organization. Delicate duties must be performed in respect of membership, contributions, and other matters. Wisdom, confidence, justice, and courage will all be demanded. There must be confidence on the part of the managers, and confidence in the managers. The selection of our first official force should be a deliberate, well considered act, and cannot well be performed in a large gathering like this. But the Chair, if we authorise him, can select some gentlemen from this gathering, who will wisely do it for us; and I beg, therefore, to offer the following resolution:

*“Resolved, That a Committee of nine be named by the Chairman, whose duty it shall be to report to an adjourned meeting the names of suitable persons to be elected as the first officers of this organization, and that this Committee confer with the Committee on the Constitution.”*

This resolution was seconded and carried unanimously.

The Chair announced the appointment of the following Committees, in pursuance of the resolutions already adopted:—

#### Committee on Constitution and By-Laws.

HENRY NICOLL, SAMUEL J. TILDEN, JAMES EMOTT, ALBERT MATHEWS,	HAMILTON W. ROBINSON, JAMES C. CARTER, CHARLES A. RAPALLO, AUGUSTUS F. SMITH. STEPHEN P. NASH.
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#### Committee on Nomination of Officers.

DORMAN B. EATON, WILLIAM H. PRITCHARD, GILBERT M. SPIER, E. L. FANCHER,	JOSEPH H. CHOATE, EDMUND R. ROBINSON, ABRAHAM R. LAWRENCE, ALBERT STICKNEY, CHARLES F. BLAKE.
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In pursuance of a resolution offered and adopted, the Chair then declared the meeting adjourned.



## REPORT OF FURTHER PROCEEDINGS.

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At an adjourned meeting, held on Tuesday evening, Feb. 15th, 1870, the Committee on the Constitution reported a draft Constitution and By-laws. A motion was made and carried that the meeting proceed immediately to debate and vote *seriatim* upon each article of the Constitution reported by the Committee. After a prolonged debate upon the various articles, the Constitution and By-laws, as subjoined, and substantially as reported by the Committee, were adopted.

The Committee on Nominations then made its report, and the meeting having proceeded to ballot, the following officers were elected :

**President:**

WILLIAM M. EVARTS.

**Vice-Presidents:**

SAMUEL J. TILDEN,	JOS. S. BOSWORTH,
JAMES W. GERARD,	JOHN SLOSSON,
EDGAR S. VAN WINKLE.	

**Treasurer:**

ALBON P. MAN.

**Corresponding Secretary:**

JOHN BIGELOW.

**Recording Secretary:**

AUGUSTUS R. MACDONOUGH.

**Executive Committee:**

HENRY NICOLL, HAMILTON W. ROBINSON, AUGUSTUS F. SMITH, WILLIAM E. CURTIS, WILLIAM C. BARRETT, JAMES EMOTT, CHAS. A. RAPALLO,	STEPHEN P. NASH, SAMUEL B. GARVIN, SIDNEY WEBSTER, JAMES C. CARTER, JOHN E. PARSONS, WILLIAM G. CHOATE, FRANCIS C. BARLOW,
HENRY A. TAILER.	

**Committee on Admissions:**

<b>HENRY A. CRAM,</b> <b>CHARLES F. SOUTHMAYD,</b> <b>SAMUEL E. LYON,</b> <b>JOHN E. BURRILL,</b> <b>RICHARD H. BOWNE,</b> <b>THEODORE W. DWIGHT,</b> <b>HOOPER C. VAN VORST,</b> <b>JOHN C. DIMMICK,</b> <b>JOHN M. KNOX,</b> <b>GROSVENOR P. LOWREY,</b>	<b>FREDERICK KAPP,</b> <b>WHEELER H. PECKHAM,</b> <b>C. A. HAND,</b> <b>FREDERICK SMYTH,</b> <b>JAMES W. GERARD, JR.,</b> <b>JOSEPH LAROCQUE,</b> <b>GEORGE DEFOREST LORD,</b> <b>CHARLES M. DA COSTA,</b> <b>EDMUND WETMORE,</b> <b>ELBRIDGE T. GERRY.</b>
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Mr. E. R. ROBINSON offered the following resolution, which was adopted, stating at the same time that the money mentioned therein had been provided for :

*Whereas*, On Saturday, Feb. 12, an attempt was made upon the life of DORMAN B. EATON, under circumstances which lead to the belief that the attempt was instigated by private malice :

*Resolved*, That the Executive Committee of this Association be instructed to offer through the proper authorities a reward of \$5,000 for the apprehension and conviction of the person or persons engaged in such attempt, to be paid on conviction.

JUDGE SLOSSON next offered the following, which were likewise adopted :

*Resolved*, That the Executive Committee be instructed to prepare a suitable address to the members of the Bar of the City and State of New York, stating the formation and objects of this Association, and requesting their co-operation and suggesting the formation of similar associations throughout the State.

*Resolved*, That the Executive Committee be instructed to have the proceedings of the first meeting printed in pamphlet form, together with the Constitution and By-laws adopted, and the names of the officers elected, and to send a copy to each member of this Association and to such members of the Bar in this and the other States of the Union as may seem expedient.

The meeting was then adjourned to the first quarterly meeting as provided, by the Constitution, viz.: the second Tuesday of March, next following.

# **CONSTITUTION,**

(As adopted Feb. 15, 1870.)

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## **ARTICLE I.**

**This Association shall be called the “The Bar Association of the City of New York.”**

## **ARTICLE II.**

The Association is established to maintain the honor and dignity of the profession of the law, to cultivate social intercourse among its members and to increase its usefulness in promoting the due administration of justice.

## **ARTICLE III.**

### **SECTION I.**

The members of the Bar who signed the preliminary articles are hereby declared to be members of this Association, but such of them as shall omit to subscribe to this Constitution, and pay the admission fee, on or before the 15th day of March next, shall cease to be members, and can only become such by subsequent admission.

Any member of the profession, in good standing, residing or practising in the City of New York, may become a member, by vote of the Association, on recommendation of the Committee on Admissions as hereinafter provided, and on subscribing to this Constitution and paying the admission fee.

### **SECTION II.**

The Committee on Admissions shall have power to make such regulations in relation to proposals for membership and notice thereof, and as they may, from time to time deem need-

ful. Candidates against whom there shall be five negative votes in the Committee shall not be recommended for admission. Upon being recommended, a vote by ballot shall be taken in the Association, and one negative vote in every five shall exclude the candidate.

#### ARTICLE IV.

##### OFFICERS.

The Officers of the Association shall be a President, five Vice-Presidents, a Recording Secretary, a Corresponding Secretary and a Treasurer. There shall also be an Executive Committee of fifteen members, of which Committee the President shall, *ex officio*, be a member; and a Committee on Admissions, to consist of twenty members. These Officers and Committees shall be elected at the Annual Meeting to be held on the second Tuesday of January in each year. The Association may provide by its By-laws for such other Standing Committees as it may deem necessary.

#### ARTICLE V.

The Executive Committee shall be vested with the title to all the property of the Association until it may be incorporated, as Trustees thereof, and shall manage its affairs, subject to the Constitution and By-laws; they shall provide a permanent place for the use of the Association, and shall appropriate such sums as they may deem fit for a Library and Reading Room.

#### ARTICLE VI.

A Library Committee, to consist of five members, shall be appointed by the Executive Committee, to hold office during their pleasure, and, subject to their directions, shall have charge of the Library and Reading Room, with power to expend upon the same such moneys as may be appropriated by the Executive Committee, or procured by voluntary subscription.

#### ARTICLE VII.

The Judges of the Courts of the United States, of the Court of Appeals, of the Supreme Court, and of all other Courts of Record of the State of New York, shall have the use of the Library and Reading Room of this Association, without the payment of fees.

## ARTICLE VIII.

### MEETINGS OF THE ASSOCIATION.

There shall be an annual meeting of the Association on the second Tuesday of January, and other stated meetings on the second Tuesdays of March, June and November in each year. At these stated meetings, and at any regular adjourned meeting thereof, all the powers of the Association may be exercised. Special meetings may be called at any time by the Executive Committee, and shall be called upon the written request of twenty members.

At such special meetings no business shall be transacted except such as shall be specified in the call thereof. The presence of fifty members, in addition to such members of the Executive Committee as may be present, shall be necessary to constitute a *quorum* at any meeting of the Association.

## ARTICLE IX.

### ADMISSION AND ANNUAL FEES.

The admission fee shall be Fifty Dollars, to be paid on signing the Constitution.

The annual dues shall be Forty Dollars, payable half-yearly, on the first days of May and November, each year; and any member in default, after thirty days notice, shall cease to be a member, unless excused by order of the Executive Committee.

In case of members of less than six years standing at the Bar, the Executive Committee may, until they shall have attained that standing, give them a credit for one-half their initiation fee, and remit one-half their annual dues.

## ARTICLE X.

Any member of the Association may be suspended or expelled for misconduct in his relations to this Association or in his profession, on conviction thereof in such manner as may be prescribed by the By-laws, and all interest in the property of the Association, of persons resigning or otherwise ceasing to be members, shall vest in the Association.

## ARTICLE XI.

This Constitution shall go into immediate effect and an elec-

tion of Officers and Committees, herein provided for, shall forthwith be had. They shall hold their offices until their successors are elected at the annual meeting, on the Second Tuesday in January, 1871.

#### ARTICLE XII.

All elections shall be by ballot. The Officers elected shall enter upon their duties immediately upon their election, and shall hold office until their successors are elected or appointed.

In case of a vacancy in any office, it shall be filled by appointment of the Executive Committee, until the next annual election.

#### ARTICLE XIII.

This Constitution may be amended by a two-third vote of the members present at any stated meeting of the Association, provided that notice of the proposed amendment, subscribed by ten members, be given at a previous meeting.

## **BY-LAWS.**

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### **I.**

#### **THE PRESIDENT AND VICE-PRESIDENTS.**

The President shall preside at all meetings of the Association, and in case of his absence, any one of the Vice-Presidents, who shall be then chosen without ballot, shall preside.

### **II.**

#### **THE RECORDING SECRETARY.**

The Recording Secretary shall keep a record of the proceedings of all meetings and of all other matters of which a record shall be deemed advisable by the Association.

He shall notify the Officers and members of their election, and shall keep a roll of the members, and shall issue notices of all meetings.

### **III.**

#### **THE CORRESPONDING SECRETARY.**

The Corresponding Secretary shall conduct the correspondence of the Association with the concurrence of the President.

### **IV.**

#### **THE TREASURER.**

The Treasurer shall collect, and, under the direction of the Executive Committee, disburse, all funds of the Association; he shall report annually and oftener, if required; he shall keep regular accounts, which shall be, at all times, open to the inspection of any member of the Executive Committee. His accounts shall be audited by a Committee of three members of the Association to be elected by ballot, at the stated meeting preceding the annual meeting in each year.

### **V.**

#### **MEETINGS OF THE EXECUTIVE COMMITTEE.**

The Executive Committee shall meet at least once a month, except in July, August and September. They shall have power

to make such regulations not inconsistent with the Constitution and By-Laws, as shall be necessary for the protection of the property of the Association, and for the preservation of good order in the conduct of its affairs.

They shall keep a record of their proceedings, which shall be read at the ensuing meeting of the Association ; and it shall be their duty to present business for the action of the Association. They shall have no power to make the Association liable for any debts amounting to more than half of the amount in the Treasurer's hands, in cash, and not subject to prior liabilities ; nor shall they have power to make any contract binding personally upon members of the Association.

#### VI.

At each stated meeting of the Association, the order of business shall be as follows :

1. Reading of minutes of preceding meeting
2. Report of Executive Committee.
3. Report of the Treasurer.
4. Reports of Special Committees.
5. Miscellaneous business.

This order of business may be changed by a vote of the majority of the members present.

The usual parliamentary rules and orders otherwise than are herein provided, shall govern all meetings of the Association.

#### VII.

If any person elected does not, within one month after notice of his election, signify his acceptance by signing the Constitution and By-Laws, and payment of his admission fee, he shall be deemed to have declined to become a member.

#### VIII.

These By-Laws may be amended, at any stated meeting of the Association, by vote of two-thirds of those present ; provided that ten days' notice, in writing, of the proposed amendment has been given to the Executive Committee.













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